IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P.No.6749 of 2007
Date of Decision: 7.5.2007

CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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Present : Mr. M.P.S. Mann, Advocate for the petitioners.

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RAJIVE BHALLA, J

Challenge in this writ petition is to the orders passed by the Assistant Collector, Ist Grade, Bahadurgarh dated 27.10.2004, the order of the Collector, Jhajjar dated 31.8.2005 and the order of the Commissioner dated 31.8.2006.

The respondent-Gram Panchayat, filed an eviction petition under Section 7 of the Punjab Village Common Lands (Regulations) Act, 1961 (hereinafter referred to as `the Act') against the petitioners and others, in respect of land measuring 100 Bighas Katcha. Vide order dated 3.6.1988, ejectment was ordered. The Gram Panchayat, filed an application for execution of the aforementioned order, which was granted vide order dated 21.8.2003. The petitioners, filed an appeal before the Collector, who

remanded the case to the Assistant Collector, for a decision on merits. After remand, the learned Assistant Collector, Ist Grade, vide order dated 27.10.2004, ordered the issuance of warrants of possession in favour of the Gram Panchayat. The petitioners, preferred an appeal, against the order issuing warrants of possession, alleging that order of ejectment dated 3.6.1988 was not passed in respect of the land in possession of the petitioners. It was also alleged that the land was described in the revenue record as Shamlat Deh Hasab Paimana Malqiat, Maqbooza Malkan, therefore, did not vest in the Gram Panchayat. The Collector, dismissed the appeal by holding that as the petitioners, had failed to prefer any appeal against the order of ejectment dated 3.6.1988, they could not reopen the matter on merits. The petitioners, thereafter, filed a revision before the Commissioner, Rohtak Division. The said revision was also dismissed, vide order dated 31.8.2006.

Counsel for the petitioners contends that in view of Full Bench judgement of this Court reported as **Jai Singh and others V. State of Haryana,** 2003(1) PLJ 429, the land in dispute does not vest in the Gram Panchayat. The Assistant Collector, therefore, had no jurisdiction, to initiate execution proceedings. It is further contended that as the land in dispute, was not subject matter of the order of eviction, the warrants of possession issued by the Assistant Collector are null and void.

We have heard learned counsel for the petitioners and perused the paper book.

It is not denied that the eviction order was passed as far back as in the year 1988. Though the Panchayat, dragged its feet, in seeking execution of the aforementioned order, it eventually filed a petition for

execution, wherein warrants for possession were issued. The contentions raised by the petitioners have been considered by the authorities below. As the order of eviction has attained finality, contentions raised in the present petition that the land does not vest in the Gram Panchayat, were not available to the petitioners and were rightly rejected. An order of ejectment, cannot be circumvented by raising such pleas. The Assistant Collector is bound to execute the order of ejectment dated 3.6.1988 in accordance with law. The question whether the land in the present case is subject matter of the order of ejectment, should have been raised before the Courts below. We find no merit in the present petition.

Dismissed.

(RAJIVE BHALLA)
JUDGE

7.5.2007
GS

(P. SATHASIVAM)
JUDGE